

STAND. COM. REP. NO. 2213

Honolulu, Hawaii

FEB 09 2024

RE: S.B. No. 2044  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawaii

Sir:

Your Committee on Housing, to which was referred S.B.  
No. 2044 entitled:

"A BILL FOR AN ACT RELATING TO THE CONTROLLING INTEREST  
TRANSFER TAX,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish that the transfer of a controlling interest in an entity that owns real property in the State shall be subject to the conveyance tax established in chapter 247, Hawaii Revised Statutes;
- (2) Require the conveyance tax collected on the transfer of the controlling interests to be deposited into the Dwelling Unit Revolving Fund; and
- (3) Require the Department of Taxation to adopt rules.

Your Committee received testimony in support of this measure from the Hawaii Housing Finance and Development Corporation and one individual.

Your Committee received testimony in opposition to this measure from NAIOP Hawaii, Cave Conservancy of Hawai'i, and three individuals.



Your Committee received comments on this measure from the Department of Taxation, Department of Land and Natural Resources, Tax Foundation of Hawaii, and Trust for Public Land.

Your Committee finds that there is currently a loophole within the conveyance tax that allows entities to bypass this tax by transferring the controlling interest in companies that own the real property.

Your Committee further finds that this issue has caused the State to lose funds that could have been used for other purposes.

This measure will close this loophole and make the conveyance tax applicable to these entity-level transactions to fund the development of critically-needed housing in the State.

Your Committee notes the concerns raised in testimony that the Bureau of Conveyances is the agency responsible for assessing the imposition of the conveyance tax as it presently functions under existing law and that, without the proper staff or resources available to properly vet these types of entity-level transfers, the complex assessment duties will fall upon the Department of Taxation. The Department of Taxation, however, testified that this measure imposes a voluntary reporting requirement, which would be sufficient to address these concerns. Additional concerns were raised alleging that this measure would move funds from the Land Conservation Fund to the Dwelling Unit Revolving Fund. However, this measure, as amended by your Committee, clarifies that an unspecified percentage of the conveyance taxes collected be deposited into the Dwelling Unit Revolving Fund, which would otherwise be credited to the General Fund. Therefore, no amounts deposited into the Land Conservation Fund are affected by this measure. Based on the discussion held at the public hearing on this measure, it was proffered that twenty-five percent of the conveyance tax collected be deposited into the Dwelling Unit Revolving Fund, and your Committee respectfully requests that this figure be considered as this measure moves through the legislative process.


Your Committee has amended this measure by:



- (1) Clarifying that the conveyance taxes collected on the transfers or acquisitions of controlling interests in entities be deposited in accordance with section 247-7, Hawaii Revised Statutes;
- (2) Inserting language that specifies the amount of the tax shall be based on the fair market value of the real property owned by the entity at the time the controlling interest is transferred or acquired;
- (3) Inserting language requiring that an unspecified percentage, or an unspecified dollar amount, whichever is less, be paid into the Dwelling Unit Revolving Fund; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2044, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Housing,

  
STANLEY CHANG, Chair



